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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 8th day of June 1998

BEFORE

THE HON' BLE MR. JUSTICE G.C. BHARUKA

WRIT PETITION NO. 11058/1998

Between::

Sri H. Mallikarjunaswamy
aged about 57 years
S/o. H.S. Hobalidar
Senior Health Inspector
Mysore City Corporation
Mysore-4.

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... Petitioner.

(By Sri S.V. Narasimhan, Advocate).

And:

1. The Commissioner
Mysore City Corporation
Mysore-4.

2. Director
Health & Family Welfare
Services
Ananda Rao Circle
Bangalore-9.

... Respondents.

(By Sri M. Papanna, Advocate, for R -1).

This writ petition is filed under Articles 226
and 227 of the Constitution of India praying to

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declare Annexure-D dt. 6-3-98 of respondent No.1 as illegal and quash the order dt. 6-3-98 vide Annexure-D of respondent No.1, etc.

This writ petition coming on for preliminary hearing this day, the Court made the following:-

O R D E R

The petitioner is working as Senior Health Inspector in the Department of Health and Family Welfare Services, Government of Karnataka. Under Official Memorandum dated 8-6-94 with his consent as provided under Rule 419(a) of the Karnataka Civil Services Rules, his services were lent to the Mysore ^{City} ~~State~~ Corporation where he joined on 7-4-94. By the impugned order dated 6-3-98 ^(Annexure-D) the Corporation has repatriated his services to the parent Department, since as per the Corporation his services were not found to be satisfactory. In the impugned order it has further been said that the order should go "to the file" which according to the petitioner means ^{"to} his service records. It has been submitted _^ on behalf of the petitioner that the impugned order is not sustainable in law because the reason for

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his repatriation is ^{untenable} ~~unsatisfactory~~. The further objection is that the Commissioner in the Corporation has no authority to direct that the impugned order should form part of the file pertaining to the service record of the petitioner which may have adverse effect on his service ^{career} ~~code~~. In my opinion, the lonee Department can return the services of a deputationist at any time if it is found that his services are either no more necessary or not appropriately useful. The deputationist cannot claim ~~create~~ any lien ^{over} ~~about~~ the deputation post and exert any right to remain thereon. That being the situation, no fault can be found in repatriation of the petitioner to the parent Department. So far as mention about his performance of duties being not satisfactory to the assessment of the Commissioner is concerned, in my opinion whenever the repatriation is directed by lonee Department or Institution, it is always implicit in ^{it} ~~law~~ that the deputationist is ^{no} ~~more~~ required and that can happen

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only if the deputatinist's services are not found to be useful or satisfactory up-to the expectation of lonee Institution. There fore in my opinion such observations cannot be taken or treated to be ^a stigma requiring any enquiry or opportunity of hearing to be given to the deputatinist. Such observations are made on overall assessment of the working of the concerned employee and reflects formation of tentative opinion ^{only} for the limited purpose ^{as} whether the services should be retained by the lonee or not. So far as the direction of the Commissioner to carry the order in the ^{service} file of the petitioner is concerned, Mr. Papanna, leamed counsel for the Corporation fairly concedes that no such direction could have been given by the Commissioner and the same be directed to be deleted. In the said view of the matter, the words "to the file" as appearing ^{the last line of} ~~as last words~~ in the impugned order, will be

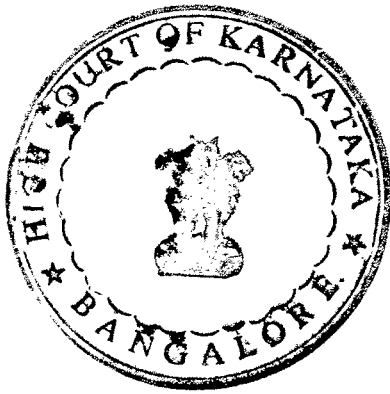
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deemed to have been struck off. Subject to the
above observations and directions, I do not find
any reason to interfere with the impugned order.
Writ petition is accordingly dismissed.



Sd/-
JUDGE

rsk